

Honorable Ronald B. Leighton  
Trial Date: March 29, 2010

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
TACOMA DIVISION

Safeco Insurance Company of America, as  
subrogee for Donald & Terry Conner,

Plaintiff,  
vs.

Sunbeam Products, Inc., a foreign corporation  
and The Holmes Group, Inc., a foreign  
corporation,

Defendants.

No. 3:08-CV-05759RBL

SAFECO'S REPLY TO  
SUNBEAM'S INCOMPLETE  
RESPONSES TO SAFECO'S  
DISCOVERY

Noted on Motion Calendar:  
Friday, December 4, 2009<sup>1</sup>

This motion was noted to be heard on November 27, 2009 (Evezich Decl.). Several days before Sunbeam's response to the motion was due, Sunbeam requested, and Safeco agreed, to continue the motion one week. *Id.* This agreement was based upon Safeco's perception that Sunbeam was attempting to completely answer the interrogatories (#6 – 8) and request for production (#2, 5-7 & 16) which were the subject of the motion. *Id.* During the week after Thanksgiving, Sunbeam produced several batches of items responsive to the requested discovery. *Id.*

Safeco's Reply Memorandum In  
Support of Motion to Compel

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1 On December 3, 2009, Sunbeam requested that the motion be stricken (it never filed a  
2 response to the motion identifying any basis for withholding any documents). *Id.* Safeco  
3 stated that it had never received any supplementation of the interrogatories since the motion  
4 had been noted and that it needed to have certification that all documents responsive to the  
5 request for productions had been produced and none were being withheld on privilege. *Id.*,  
6 Exh. 1.

7  
8 Later that day, Sunbeam produced Amended Answers to Interrogatories and Amended  
9 Supplemental Production Responses. *Id.*, Exh. 2. However, the responses still asserted  
10 privileges and did not fully answer the discovery requests.

11 For instance interrogatory No. 6 requested: For each defense alleged in your Answer,  
12 please state:

- 13 a. The defense;
- 14 b. All facts supporting the defense;
- 15 c. The name, business address, and job title of the person(s) you claim may  
16 have information tending to support your contention(s);
- 17 d. description of any documentary or other material tending to support your  
18 contention(s) including, but not limited to, pictures, drawings, measurements, diagrams,  
19 videotapes, audio tapes, moving pictures, damage estimated, etc.; and,
- 20 e. The name, address and Job title of the person(s) having care, custody or  
21 control of any such documentary or other material tending to support your contention(s).  
22  
23  
24

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25 <sup>1</sup> Originally noted to be heard on November 27, 2009.

<u>Sunbeam's Original Answer:</u>	<u>Sunbeam's Amended Answer:</u>
<p>Objection. This interrogatory seeks information that is protected by the attorney-client privilege and work product privilege. In addition, this interrogatory is premature. Expert opinions will be disclosed in the manner and at the time required by the Federal Rules of Civil Procedure and the case schedule. Without waiving these objections, the Defendant contends that Terry Conner, Donald Conner and representatives of Safeco Insurance Company of America have supporting information. Additionally, the defendant references and incorporates herein all individuals named in Plaintiff's Initial Disclosures. Investigation Continues. The defendant reserves the right to supplement this answer.</p>	<p>Objection. This interrogatory seeks information that is protected by the attorney-client privilege and work product privilege. Without waiving these objections, the Defendant contends that Terry Conner, Donald Conner and representatives of Safeco Insurance Company of America have supporting information. Additionally, the defendant references and incorporates herein all individuals named in Plaintiff's Initial Disclosures. Further, see deposition testimony of Plaintiff(s) deposition testimony of Fire Marshall Heidi Scarpelli, and all expert reports.</p>

Thus, Sunbeam has asserted fifteen answers in its complaint and, in response to a motion to compel, it has failed to articulate even the most basic answer to this valid discovery requests. Instead, it forces Safeco to try to discern the factual basis, witnesses, and documents, that support Sunbeam's defenses. Additionally, Safeco should not be in the position of trying to ferret out the legal basis of some of Safeco's asserted defenses.

Sunbeam provided similar responses to interrogatories No. 7 & 8. In each of them, their amended responses reiterated the same objections as in the original responses and provided responses subject to the objections.

With regard to the Request for Production of Documents, Safeco believed that it was being reasonable and making resolution of the outstanding document production issues simple by asking that Sunbeam certify that all documents responsive to the requests were produced

1 without withholding documents on the basis of privilege. Instead, Sunbeam stated that it had  
2 produced some documents, but each document production provided that documents were  
3 being provided "without waiving the objections contained in Defendant's original production."  
4 *Id.*, Exh. 2. Sunbeam has neither certified that it has produced or identified all documents  
5 responsive to the requests, including those it is withholding on the basis of privilege. Since it  
6 never provided a privilege log of withheld documents, Safeco has been unable to determine  
7 whether those documents are privileged and, since the non-production of such documents was  
8 the subject of this motion, this court should enter an order requiring Sunbeam to fully answer  
9 all interrogatories (#6 – 8) and produce all documents responsive to Requests for Production  
10 (#2, 5-7 & 16), without withholding any on the basis of privilege, by a date determined by the  
11 Court.  
12

13 Dated: December 4, 2009.

14 EVEZICH LAW OFFICES, P.L.L.C.

15 By       /s/        
16 Craig Evezich, WSBA #20957  
17 Attorney for Plaintiff Safeco  
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26 Safeco's Reply Memorandum In  
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CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/EDF system which will send notification of such filing to the following:

Elizabeth Dietrich Gaukroger

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and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: N/A

s/Craig Evezich

Craig Evezich, WSBA No. 20957

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